

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

ROBERT D. BELUE, et al.,)	
)	
Plaintiffs,)	CIVIL ACTION CASE NO.
)	2:06-cv-1034- WKW
VS.)	
)	
A.O. SMITH ELECTRICAL PRODUCTS)	
COMPANY, a division of A.O. Smith)	
Corporation, et al.,)	
)	
Defendants.)	
_____)	

MOTION TO DISMISS AND JOINDER OF DEFENDANT GOULD ELECTRONICS INC.
TO MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE
STATEMENT OF THE GOODYEAR TIRE AND RUBBER CO.

COMES NOW the Defendant Gould Electronics Inc., incorrectly named in Plaintiffs' Complaint as "Nikko Materials USA, Inc. d/b/a Gould Electronics Inc. individually and as successor in interest to Goulds, Inc., Imperial Corp." (hereinafter "Gould Electronics"), and files this, its Motion to Dismiss Plaintiffs' Complaint pursuant to Fed. R. Civ. P. 12(b). Gould Electronics hereby joins in the Motion to Dismiss filed by the defendant Goodyear Tire and Rubber Co., and adopts and incorporates said Motion and supporting brief as if set forth in full herein, and further, moves the Court to dismiss the Complaint against it, and as grounds therefore would show unto the Court as follows:

1. The Complaint fails to state a claim upon which relief may be granted;
2. This Court lacks jurisdiction over the subject matter of Plaintiffs' Complaint;
3. Venue is improper and/or inconvenient in this forum; and
4. Plaintiffs' claims do not assert common questions of law or fact and are therefore improperly joined and due to be severed.

WHEREFORE, PREMISES CONSIDERED, Gould Electronics respectfully requests the Court to enter an order dismissing the Complaint against it with prejudice, costs tax to the Plaintiffs.

This 21st day of December, 2006.

/s/Gregory M. Taube_____
Gregory M. Taube
Alabama Bar No. ASB-4499-A41G

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the foregoing **MOTION TO DISMISS AND JOINDER OF DEFENDANT GOULD ELECTRONICS INC. TO MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT OF THE GOODYEAR TIRE AND RUBBER CO.** via electronic filing, to all counsel of record, including the following:

Counsel for Plaintiffs:

G. Patterson Keahey, Esq.
One Independence Plaza
Suite 612
Birmingham, AL 35209

This 21st day of December, 2006.

/s/Gregory M. Taube_____
Gregory M. Taube
Alabama Bar No. ASB-4499-A41G

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